



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R07-OAR-2013-0692; FRL-9909-45-Region 7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Air Emissions from Existing Municipal Solid Waste Landfills; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the state section 111 plan for Municipal Solid Waste (MSW) Landfills submitted by the State of Missouri Department of Natural Resources. This plan contains state rules "Municipal Solid Waste Landfills" and "Restriction of Emissions from Municipal Solid Waste Landfills" that were updated as a result of amendments to the Federal Emission Guidelines (EG) published April 10, 2000; October 17, 2000; and September 21, 2006. The plan also corrects typographical and administrative changes in the Missouri Rules. This approval means that EPA finds the State Plan meets applicable Clean Air Act (CAA) requirements.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], without further notice, unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. If EPA receives adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2013-0692, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: Bernstein.craig@epa.gov
3. Mail or Hand Delivery: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2013-0692. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by

statute. Do not submit through www.regulations.gov or email information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7688, or by email at Bernstein.craig@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Have the Requirements for Approval of a Section 111(d) Plan Revision Been Met?
- III. What Action is EPA Taking?

I. Background

Standards and guidelines for new and existing MSW landfills are promulgated under the authority of section 111 of the CAA. These standards can be found at 40 CFR part 60, subpart WWW, new source performance standards (NSPS) for new MSW landfills, and subpart Cc, emission guidelines (EG) for existing MSW landfills. The final NSPS and EG were published in the **Federal Register** on

March 12, 1996 (49 FR 9905). We first approved Missouri's section 111(d) plan for MSW landfills on April 24, 1998 (63 FR 20320). The state's plan consists primarily of two state rules which adopt the Federal landfill requirements. These rules are 10 CSR 10-6.310 "Restriction of Emissions from Municipal Solid Waste Landfills" (which covers all areas of Missouri except St. Louis) and 10 CSR 10-5.490 "Municipal Solid Waste Landfills" (which covers the St. Louis area).

Since Missouri last amended both of these state rules, EPA has published in the **Federal Register** three final rules that update the requirements for municipal solid waste landfills. The dates and Federal Register citations are: April 10, 2000 (65 FR 18906); October 17, 2000 (65 FR 61744), and September 21, 2006 (71 FR 55127). Missouri updated rules 10 CSR 10-5.490 "Municipal Solid Waste Landfills" and 10 CSR 10-6.310 "Restriction of Emissions from Municipal Solid Waste Landfills" to incorporate EPA's recent amendments, to correct typographical errors, to include formatting changes, and to correct inconsistencies. Missouri's request to move definitions from 10 CSR 10-5.490 and 10 CSR 10-6.310 to rule 10 CSR 10-6.020 "Definitions and Common Reference Tables" has been addressed in a separate rulemaking action. In a separate action being published in today's **Federal Register**, EPA is taking action to approve rule 10 CSR 10-5.490 "Municipal Solid Waste Landfills" into Missouri's SIP as well.

II. Have the Requirements for Approval of a Section 111(d) Plan Revision Been Met?

The Missouri Air Conservation Commission adopted rule amendments to 10 CSR 10-5.490 and 10 CSR 10-6.310 on February 2, 2012, after considering comments received at a public hearing. The Missouri Air Conservation Commission has full legal authority to develop rules pursuant to section 643.050 of the Missouri Air Conservation Law. The State followed all applicable administrative procedures in proposing and adopting the rule actions. After publication by the Missouri Secretary of State in the Code of State Regulations, the amendments became effective May 30, 2012. The State of Missouri has incorporated these rule amendments into its revised section 111(d) plan and submitted the plan and rules to us for approval pursuant to section 111(d). We have evaluated the state plan revision against criteria in the EG and against the plan approval criteria at 40 CFR 60.23 through 40 CFR 60.26, subpart B "Adoption and Submittal of State Plans for Designated Facilities." The state plan meets all of the applicable requirements of 40 CFR part 60, subpart B and subpart Cc.

III. What Action is EPA Taking?

EPA is approving the revisions to the Missouri section 111(d) plan submitted by the State of Missouri for MSW landfills, which incorporates the recent EPA updated rules. We

are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment because the revisions are administrative and consistent with Federal regulations. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the section 111(d) revision. If EPA receives adverse comments on this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the

Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the

relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing section 111(d) plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a section 111(d) plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d) plan submission, to use VCS in place of a section 111(d) plan submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Missouri's section 111(d) plan revision for SSI sources may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 3, 2014

Karl Brooks,
Regional Administrator,
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 62 - APPROVAL AND PROMULGATION OF STATE PLANS FOR
DESIGNATED FACILITIES AND POLLUTANTS**

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.* .

Subpart AA - Missouri

2. Section 62.6357 is amended by adding paragraph (e) to read as follows:

§62.6357 Identification of plan.

* * * * *

(e) Amended plan for the control of air emissions from Municipal Solid Waste Landfills submitted by the Missouri Department of Natural Resources on February 9, 2012. The effective date of the amended plan is May 30, 2012.

[FR Doc. 2014-08340 Filed 04/14/2014 at 8:45 am; Publication
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